

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NY  
DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
FILED FEB 27 2020

-----X  
IVAN DELGADO,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.  
-----X

MEMORANDUM DECISION  
AND ORDER

18 Civ. 3960 (GBD) (DF)

GEORGE B. DANIELS, United States District Judge:

Plaintiff Ivan Delgado brings this action against Defendant the Commissioner of Social Security under the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3), seeking review of an administrative law judge's decision denying Plaintiff disability insurance benefits. (Compl., ECF No. 2, at 2.) Both parties moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). (Notice of Mot. for J. on the Pleadings, ECF No. 18; Notice of Mot., ECF No. 22.)

Before this Court is Magistrate Judge Debra Freeman's January 21, 2020 Report and Recommendation (the "Report"), recommending that Plaintiff's motion be granted to the extent that this case be remanded to the Social Security Administration ("SSA") for further proceedings and Defendant's cross-motion be denied. (Report, ECF No. 25, at 42.) Magistrate Judge Freeman advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.* at 42–43.) No objections have been filed.

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when,

“upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation and internal quotation marks omitted).


Magistrate Judge Freeman concluded that the administrative law judge erred in denying Plaintiff disability insurance benefits. Specifically, she found that the judge made various assumptions based on consultants’ reports and relied heavily upon these assumptions, despite the fact that they that were not supported by substantial evidence. (Report at 39–42.)

Magistrate Judge Freeman’s findings regarding the administrative law judge’s errors were well-reasoned and grounded in fact and law. This Court has reviewed the Report, and finds no error, clear or otherwise. Accordingly, Magistrate Judge Freeman’s Report is ADOPTED in full.

Plaintiff’s motion for judgment on the pleadings, (ECF No. 18), is GRANTED. Defendant’s cross-motion for judgment on the pleadings, (ECF No. 22), is DENIED. This matter is remanded for further proceedings. The Clerk of Court is directed to close the motions accordingly.

Dated: New York, New York  
February 26, 2020

SO ORDERED.

  
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GEORGE B. DANIELS  
United States District Judge